

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB2312 _____
_____ Of the printed Bill
Page _____ Section _____ Lines _____
_____ Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Amendment submitted by: Richard

Morrissette
Adopted: _____

Reading Clerk

1 STATE OF OKLAHOMA

2 2nd Session of the 54th Legislature (2014)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 2312

By: Morrisette

7
8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to torts; amending 76 O.S. 2011,
10 Section 5.8, as amended by Section 1, Chapter 276,
11 O.S.L. 2013 (76 O.S. Supp. 2013, Section 5.8), which
12 relates to voluntary architectural or engineering
13 services; modifying scope of immunity; directing
14 municipalities to comply with certain requirements in
15 the event of certain damage or collapse of certain
16 buildings; providing for codification; and providing
17 an effective date.

18 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

19 SECTION 1. AMENDATORY 76 O.S. 2011, Section 5.8, as
20 amended by Section 1, Chapter 276, O.S.L. 2013 (76 O.S. Supp. 2013,
21 Section 5.8), is amended to read as follows:

22 Section 5.8 A. A licensed architect or professional engineer
23 who voluntarily, without compensation other than expense
24 reimbursement and reimbursement for cost of producing a report,
excluding compensation for time or effort involved in producing the
report, provides architectural, structural, electrical, mechanical

1 or other design professional services ~~related to a declared~~
2 ~~national, state or local emergency caused by a natural disaster or~~
3 ~~catastrophic event~~, at the request of or with the approval of a
4 national, state or local public official, law enforcement official,
5 public safety official or building inspection official believed by
6 the licensed architect or professional engineer to be acting in an
7 official capacity, shall not be liable for any personal injury,
8 wrongful death, property damage or other loss of any nature related
9 to the licensed architect's or professional engineer's acts or
10 omissions in the performance of such professional services for any
11 publicly or privately owned structure, building, facility, project
12 utility, equipment, machine, process, piping or other system.

13 Nothing in this section shall provide immunity for injury or damage
14 resulting from gross negligence or willful or wanton misconduct in
15 rendering the emergency professional services. The immunity
16 provided in this section shall apply only to a voluntary
17 architectural or engineering service ~~that occurs during the~~
18 ~~emergency or within ninety (90) days following the end of the period~~
19 ~~for an emergency, disaster or catastrophic event, unless extended by~~
20 ~~an executive order issued by the Governor under the Governor's~~
21 ~~emergency executive powers.~~

22 B. In the event a national, state or local emergency caused by
23 a natural disaster or catastrophic event ~~described pursuant to~~
24 ~~subsection A of this section~~ occurs, and the services of licensed

1 architects or professional engineers who provide architectural,
2 structural, electrical, mechanical or other design professional
3 services are required, but the number of professional persons
4 licensed or registered in this state is insufficient for such
5 purpose, any person licensed or registered in another state to
6 practice such profession and who is a member of a mobile support
7 team or unit of the licensing state, may inspect and placard
8 structures for safety and habitability in this state upon request by
9 the Governor of this state and order of the Governor of the person's
10 home state without being licensed or registered in this state. Out-
11 of-state licensed architects or professional engineers who inspect
12 and placard structures for safety and habitability under these
13 conditions shall not be liable for any personal injury, wrongful
14 death, property damage or other loss related to the licensed
15 architect's or professional engineer's acts or omissions in the
16 performance of such emergency professional services for any publicly
17 or privately owned structure, building, facility, project utility,
18 equipment, machine, process, piping or other system. Nothing in
19 this section shall provide immunity for injury or damage resulting
20 from gross negligence or willful or wanton misconduct in rendering
21 the emergency professional services. The immunity provided in this
22 section shall apply only to a voluntary architectural or engineering
23 service of inspecting and placarding structures for safety and
24 habitability that occurs during the emergency or within ninety (90)

1 days following the end of the period for an emergency, disaster or
2 catastrophic event, unless extended by an executive order issued by
3 the Governor of this state under the Governor's emergency executive
4 powers.

5 C. For the purposes of this section:

6 1. "Building inspection official" means any appointed or
7 elected federal, state or local official with executive
8 responsibility to coordinate building inspection in the jurisdiction
9 in which the emergency or event has occurred;

10 2. "Law enforcement official" means any appointed or elected
11 federal, state or local official with executive responsibility to
12 coordinate law enforcement in the jurisdiction in which the
13 emergency or event has occurred;

14 3. "Licensed architect" means a person duly licensed pursuant
15 to Section 46.1 et seq. of Title 59 of the Oklahoma Statutes;

16 4. "Professional engineer" means a person duly licensed and
17 registered pursuant to Section 475.1 et seq. of Title 59 of the
18 Oklahoma Statutes;

19 5. "Public official" means any elected federal, state or local
20 official with executive responsibility in the jurisdiction in which
21 the emergency or event has occurred; and

22 6. "Public safety official" means any appointed or elected
23 federal, state or local official with executive responsibility to
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1 coordinate public safety in the jurisdiction in which the emergency
2 or event has occurred.

3 SECTION 2. NEW LAW A new section of law to be codified
4 in the Oklahoma Statutes as Section 22-112.4 of Title 11, unless
5 there is created a duplication in numbering, reads as follows:

6 In the event of accidental damage to or collapse of a city- or
7 state-owned structure, whether induced by weather effects, seismic
8 effects, or any other cause, the municipality having jurisdiction shall
9 comply with the following requirements:

10 1. No immediate action shall be taken to alter, remove, or
11 deconstruct the building except to the extent necessary for search and
12 rescue efforts;

13 2. Any failure or accidental collapse of a city- or state-owned
14 structure shall be considered just cause for a thorough investigation
15 concerning not only the nature and causes of the failure but also the
16 adequacy of the structural system to support design loads;

17 3. If the failure results in at least one human fatality, the
18 municipality having jurisdiction shall allow an independent
19 investigation, whether voluntary or compensated, by a team of licensed
20 professional engineers having applicable expertise consisting of
21 independent consulting engineers and at least one professor of civil
22 engineering from an Oklahoma university;

23 4. The municipality having jurisdiction shall be compelled to
24 supply upon request the final drawings as approved by the design
engineer of record for comparison with the findings of the failure

1 investigation. Such drawings may be either the final design drawings
2 or the as-built drawings with approved change orders, but must
3 represent the final design decisions made by the design engineer of
4 record and accepted by the municipality having jurisdiction; and

5 5. If the failure results in at least one human fatality, the
6 demolition and removal of the structure shall not proceed until the
7 independent investigation team has completed their field work.

8 SECTION 3. This act shall become effective November 1, 2014.

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10 54-2-10336 AMM 02/24/14

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